

Assembly Concurrent Resolution

No. 98

Introduced by Assembly Member Wagner

February 2, 2012

Assembly Concurrent Resolution No. 98—Relative to the California Law Revision Commission.

LEGISLATIVE COUNSEL'S DIGEST

ACR 98, as introduced, Wagner. California Law Revision Commission: studies.

Existing law requires the California Law Revision Commission to study, and limits the commission to studying, topics approved by resolution of the Legislature.

This measure would grant approval to the commission to continue its study of designated topics that the Legislature previously authorized or directed the commission to study.

The measure would require the commission, before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, to submit a detailed description of the scope of work to the chairs and vice chairs of the Assembly Committee on Judiciary and the Senate Committee on Judiciary, and if during the course of the project there is a major change to the scope of work, submit a description of the change. This measure would also invite a staff member of the commission to appear and testify at any committee hearing of a bill to implement a commission recommendation. This measure would also request the commission to provide a copy of a commission recommendation to each member of a policy committee that is hearing a bill that would implement the recommendation.

Fiscal committee: yes.

1 WHEREAS, The California Law Revision Commission is
2 authorized to study topics set forth in the calendar contained in its
3 report to the Governor and the Legislature that have been or are
4 thereafter approved for study by concurrent resolution of the
5 Legislature, and topics that have been referred to the commission
6 for study by concurrent resolution of the Legislature or by statute;
7 and

8 WHEREAS, The commission, in its annual report covering its
9 activities for 2010 and 2011, recommends continued study of 22
10 topics, all of which the Legislature has previously authorized or
11 directed the commission to study; now, therefore, be it

12 *Resolved by the Assembly of the State of California, the Senate*
13 *thereof concurring*, That the Legislature approves for continued
14 study by the California Law Revision Commission the topics listed
15 below, all of which the Legislature has previously authorized or
16 directed the commission to study:

17 (1) Whether the law should be revised that relates to creditors'
18 remedies, including, but not limited to, attachment, garnishment,
19 execution, repossession of property (including the claim and
20 delivery statute, self-help repossession of property, and the
21 Commercial Code provisions on repossession of property),
22 confession of judgment procedures, default judgment procedures,
23 enforcement of judgments, the right of redemption, procedures
24 under private power of sale in a trust deed or mortgage, possessory
25 and nonpossessory liens, insolvency, and related matters.

26 (2) Whether the California Probate Code should be revised,
27 including, but not limited to, the issue of whether California should
28 adopt, in whole or in part, the Uniform Probate Code, and related
29 matters.

30 (3) Whether the law should be revised that relates to real and
31 personal property, including, but not limited to, a marketable title
32 act, covenants, servitudes, conditions, and restrictions on land use
33 or relating to land, powers of termination, escheat of property and
34 the disposition of unclaimed or abandoned property, eminent
35 domain, quiet title actions, abandonment or vacation of public
36 streets and highways, partition, rights and duties attendant on
37 assignment, subletting, termination, or abandonment of a lease,
38 and related matters.

1 (4) Whether the law should be revised that relates to family law,
2 including, but not limited to, community property, the adjudication
3 of child and family civil proceedings, child custody, adoption,
4 guardianship, freedom from parental custody and control, and
5 related matters, including other subjects covered by the Family
6 Code.

7 (5) Whether the law relating to discovery in civil cases should
8 be revised.

9 (6) Whether the acts governing special assessments for public
10 improvement should be simplified and unified.

11 (7) Whether the law relating to the rights and disabilities of
12 minors and incompetent persons should be revised.

13 (8) Whether the Evidence Code should be revised.

14 (9) Whether the law relating to arbitration, mediation, and other
15 alternative dispute resolution techniques should be revised.

16 (10) Whether there should be changes to administrative law.

17 (11) Whether the law relating to the payment and the shifting
18 of attorney's fees between litigants should be revised.

19 (12) Whether the Uniform Unincorporated Nonprofit
20 Association Act, or parts of that uniform act, and related provisions
21 should be adopted in California.

22 (13) Recommendations to be reported pertaining to statutory
23 changes that may be necessitated by court unification.

24 (14) Whether the law of contracts should be revised, including
25 the law relating to the effect of electronic communications on the
26 law governing contract formation, the statute of frauds, the parol
27 evidence rule, and related matters.

28 (15) Whether the law governing common interest housing
29 developments should be revised to clarify the law, eliminate
30 unnecessary or obsolete provisions, consolidate existing statutes
31 in one place in the codes, establish a clear, consistent, and unified
32 policy with regard to formation and management of these
33 developments and transaction of real property interests located
34 within them, and to determine to what extent they should be subject
35 to regulation.

36 (16) Whether the statutes of limitation for legal malpractice
37 actions should be revised to recognize equitable tolling or other
38 adjustment for the circumstances of simultaneous litigation, and
39 related matters.

1 (17) Whether the law governing disclosure of public records
2 and the law governing protection of privacy in public records
3 should be revised to better coordinate them, including consolidation
4 and clarification of the scope of required disclosure and creation
5 of a single set of disclosure procedures, to provide appropriate
6 enforcement mechanisms, and to ensure that the law governing
7 disclosure of public records adequately treats electronic
8 information, and related matters.

9 (18) Whether the law governing criminal sentences for
10 enhancements relating to weapons or injuries should be revised to
11 simplify and clarify the law and eliminate unnecessary or obsolete
12 provisions.

13 (19) Whether the Subdivision Map Act (Division 2 (commencing
14 with Section 66410) of Title 7 of the Government Code) and the
15 Mitigation Fee Act (Chapter 5 (commencing with Section 66000),
16 Chapter 6 (commencing with Section 66010), Chapter 7
17 (commencing with Section 66012), Chapter 8 (commencing with
18 Section 66016), and Chapter 9 (commencing with Section 66020)
19 of Division 1 of Title 7 of the Government Code) should be revised
20 to improve their organization, resolve inconsistencies, and clarify
21 and rationalize provisions, and related matters.

22 (20) Whether the Uniform Statute and Rule Construction Act
23 (1995) should be adopted in California in whole or part, and related
24 matters.

25 (21) Whether the law governing the place of trial in a civil case
26 should be revised.

27 (22) Analysis of the legal and policy implications of treating a
28 charter school as a public entity for the purposes of Division 3.6
29 (commencing with Section 810) of Title 1 of the Government
30 Code; and be it further

31 *Resolved*, That before commencing work on any project within
32 the calendar of topics the Legislature has authorized or directed
33 the commission to study, the commission shall submit a detailed
34 description of the scope of work to the chairs and vice chairs of
35 the Assembly Committee on Judiciary and the Senate Committee
36 on Judiciary, and if during the course of the project there is a major
37 change to the scope of work, submit a description of the change;
38 and be it further

39 *Resolved*, That the staff of the commission is invited to appear
40 and testify at any committee hearing of a bill to implement a

1 commission recommendation, for the purpose of explaining the
2 recommendation and answering questions posed by committee
3 members, provided that the staff may not advocate for the passage
4 or defeat of the legislation; and be it further

5 *Resolved*, That the commission is requested to provide a copy
6 of a commission recommendation to each member of a policy
7 committee that is hearing a bill that would implement the
8 recommendation; and be it further

9 *Resolved*, That the Chief Clerk of the Assembly transmit a copy
10 of this resolution to the California Law Revision Commission; and
11 be it further

12 *Resolved*, That the Chief Clerk of the Assembly transmit copies
13 of this resolution to the author for appropriate distribution.